



Town of Sterling
Office of the Town Clerk
One Park St, Butterick Municipal Bldg.
Sterling, Massachusetts 01564
Tel 978-422-8111 ext 2307 or 2308

December 14, 2021

To: Residents of Sterling

Re: Attorney General by-law approvals from Sterling Annual Town Meeting June 14, 2021

Please be advised:

The following by-laws voted at the Annual Town Meeting held June 14, 2021 have been approved by the Massachusetts Attorney General's office:

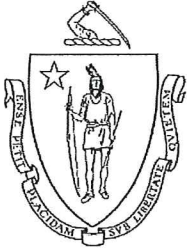
Warrant Articles # 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 44, 45, 46, 48, and 50 (Zoning)
Warrant Articles 43 and 47 (General)

Attached herein:

- The decision of the Attorney General dated December 10, 2021
- Certificates of final vote under each Article

Kathleen Farrell, Town Clerk

This Publication will be posted on the Town Website and posted at the following locations: Butterick Municipal Building (Precinct 1), Town Library, Sterling Municipal Light Building, Sterling Police Station (Precinct 2), Sterling Post Office, and Sterling Senior Center.



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

December 10, 2021

Kathleen K. Farrell, Town Clerk
Town of Sterling
1 Park Street
Sterling, MA 01564

Re: Sterling Annual Town Meeting of June 14, 2021 -- Case # 10283
Warrant Articles # 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 44, 45,
46, 48, and 50 (Zoning)
Warrant Articles 43 and 47 (General)

Dear Ms. Farrell:

Articles 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 43, 44, 45, 46, 47, 48, and 50 -
We approve Articles 28 through 38, 40, 41, 43 through 48 and 50.¹ Our comments regarding
Articles 28 through 38, 40, 41, and 47 are provided below.

Articles 28 through 38, 40, and 41 - Under Articles 28 through 38, 40, and 41 ("Articles")
the Town voted to make changes to its zoning by-laws. The certified votes submitted to this Office
for the Articles state that they were voted as part of the Town's Consent Agenda and passed Town
Meeting by a two-thirds vote as declared by the Town's Moderator.

During our review of the Articles, we received correspondence urging our disapproval of
these Articles on the basis that they did not pass by the required two-thirds vote and the vote tally
was falsified to ensure passage of the Consent Agenda. As provided in more detail below, we have
determined that the asserted deficiencies cited in the opposition letter do not provide grounds for
us to disapprove these Articles.

A. Attorney General's Standard of Review

Our review of the Articles is governed by G.L. c. 40, § 32. Pursuant to G.L. c. 40, § 32, the
Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every
presumption is to be made in favor of the validity of municipal by-laws." Amherst v. Attorney

¹ On October 13, 2021, by agreement with Town Counsel, we extended our deadline for review of these
Articles for an additional 60 days until December 12, 2021.

General, 398 Mass. 793, 795-96. The Attorney General does not review the policy arguments for or against the enactment. Amherst at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”) Rather, in order to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. Id. at 796. “As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid.” Bloom v. Worcester, 363 Mass. 136, 154 (1973). Massachusetts has the “strongest type of home rule and municipal action is presumed to be valid.” Connors v. City of Boston, 430 Mass. 31, 35 (1999) (internal quotations and citations omitted). “The legislative intent to preclude local action must be clear.” Bloom, at 155.

Because the Articles propose amendments to the town’s zoning by-laws the amendments must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) (“With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders.”). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court. “[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare.” Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). Because the adoption of a zoning by-law by the voters at Town Meeting is both the exercise of the town’s police power and a legislative act, the vote carries a “strong presumption of validity.” Id. at 51. “Zoning has always been treated as a local matter and much weight must be accorded to the judgment of the local legislative body, since it is familiar with local conditions.” Concord v. Attorney General, 336 Mass. 17, 25 (1957) (quoting Burnham v. Board of Appeals of Gloucester, 333 Mass. 114, 117 (1955)). “If the reasonableness of a zoning bylaw is even ‘fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.’” Durand, 440 Mass. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). Nevertheless, where a zoning by-law conflicts with state or federal law or the Constitution, it is invalid. See Zuckerman v. Hadley, 442 Mass. 511, 520 (2004) (rate of development by-law of unlimited duration did not serve a permissible public purpose and was thus unconstitutional). In general, a municipality “is given broad authority to establish zoning districts regulating the use and improvement of the land within its borders.” Andrews v. Amherst, 68 Mass. App. Ct. 365, 367-368 (2007). However, a municipality has no power to adopt a zoning by-law that is “inconsistent with the constitution or laws enacted by the [Legislature]...” Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

B. Claims of Procedural Inconsistencies with State Law

In a correspondence opposing the Articles the opponents state that the Articles did not receive the required two-thirds vote and the votes were falsified. In determining whether a by-law is consistent with the Constitution and laws of the Commonwealth, the Attorney General has available to her the materials which the Town Clerk is required to submit pursuant to G.L. c. 40, § 32: “. . . a certified copy of such by-law with a request for its approval, a statement clearly explaining the proposed by-law, including maps and plans if necessary, and adequate proof that

all of the procedural requirements for the adoption of such by-law have been complied with." The claim that votes were falsified is an issue best left for a court, which, if a case were properly initiated, would be better equipped to find the facts on a full record and determine the appropriate remedy for any errors found to have occurred. Therefore, it is our conclusion that we may not invalidate the amendments adopted under the Articles based on the allegation that the votes were falsified.

Article 47 - Under Article 47 the Town deleted its existing Chapter 63, "Earth Removal," and replaced it with a new Chapter 63, "Earth Removal." The new Chapter 63 requires an earth removal permit from the Town's Select Board (as the permit granting authority) for earth removal operations. Section 63-3 "Permit Required." The new Chapter 63 provides exemptions from the permit requirement and establishes the criteria for granting an earth removal permit. The new Chapter 63 also imposes site requirements and standards, reclamation and closing requirements, and bond requirements. Sections 63-8, 63-9, and 63-10, respectively. The new Chapter 63 also imposes fines for violations of Chapter 63. We approve Chapter 63. However, we offer the following comments for the Town to consider and discuss with Town Counsel.

Section 63-4 lists the activities exempt from earth removal permit requirement. Included in the list is an exception for agricultural activities as follows:

L. Earth removal required in the customary use of land for agriculture of less than an aggregate of 1,000 cubic yards in situ on a single lot within any five (5) year period (commencing on the date of the Notification of Intent is filed with the PGA), subject to compliance with the Earth Removal Operation Criteria in §63-7.

While we approve the limited exemption given to agriculture under Section 63-4 (L), the Town must apply the by-law consistent with the protections given to agricultural uses under state law. The laws and constitution of the Commonwealth have recognized the importance of agriculture and agricultural uses within the state. Article 97 of the Massachusetts Constitution declares that the protection of people in their right to the utilization of agricultural resources is a public purpose in the Commonwealth. Moreover, there are numerous state laws and regulations that preclude agricultural uses from restriction by local legislation. For example, G.L. c. 40A, § 3 provides in relevant part as follows:

No zoning . . . by-law . . . shall . . . prohibit unreasonably regulate, or require a special permit for the use of land for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, nor prohibit, unreasonably regulate or require a special permit for the use, expansion, reconstruction or construction of structures thereon for the primary purpose of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture, including those facilities for the sale of produce, wine and dairy products.....except that all such activities may be limited to parcels of 5 acres or more or to parcels 2 acres or more if the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture.

Section 3 establishes that, to the extent the use of land or structures constitutes commercial agriculture, the Town cannot require a special permit for, unreasonably regulate, or prohibit such activities: (1) on land zoned for agriculture; (2) on land that is greater than five acres in size; and (3) on land of 2 acres or more if the sale of products from the agricultural use generates \$1,000 per acre or more of gross sales. The Town must apply the limited exemption given to agriculture in Section 63-4 (L) in a manner consistent with the protections accorded to agricultural uses under state law. The Town should consult with Town Counsel with any questions on this issue.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Kelli E. Gunagan

By: Kelli E. Gunagan
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600

cc: Town Counsel Gregg J. Corbo



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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 28. SELECT BOARD CITATION** *(Consent)*

It was voted by Consent Calendar to amend the Protective Bylaws by replacing the words "Board of Selectmen" in each place they appear and inserting the words "Select Board" in place thereof. Or take any action in relation thereto.

Passage requires a 2/3rds vote

Submitted by: Select Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This article updates the language of the Town's Protective Bylaws to reflect a gender-neutral citation. Last year, the Town's General Bylaws were also updated by a vote at Annual Town Meeting. The article replaces "Board of Selectmen" with "Select Board" in the Protective Bylaws.*

Moved Made by Arden Sonnenberg that the Town vote to amend the Protective Bylaws as printed in the Warrant under Article 28.

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 29. SITE PLAN REVIEW** *(Consent)*

It was voted by Consent Calendar to amend Article 6, Section 6.4 Site Plan Review, as follows:

Article 6, Section 6.4.6 Waiver of Technical Compliance by deleting this section in its entirety and sequentially renumbering the sections thereafter with deletions shown in strikethrough:

~~**6.4.6 Waiver of Technical Compliance.** The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Section 6.4.4 or 6.4.5 where the project involves relatively simple development plans or constitutes a minor site plan. Applications for permits to build, alter or expand any non-residential building, structure or use in any district where such construction will exceed a total gross floor area of 500 square feet but not exceed a total gross floor area of 2000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Minor site plans shall set forth all of the information required by Section 6.4.4; provided, however, that the scale of the site plan may be 1"=80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey.~~

Table of Contents by deleting Section 6.4.6 "Waiver of Technical Compliance" and to renumber all subsequent section thereafter.

Replace the following sections that contain the erroneous site plan review bylaw citations found in Sections 4.6.5 (e), 4.7.5.5 (h), 4.7.6.2 & 4.7.6.4 and replace with Section 6.4.

Article 6, Section 6.4.1. Applicability by modifying the square footage trigger whereby projects under 1,200 SF do not require review or a waiver of technical compliance from the Planning Board and to correct a typographical error, as shown below with additions shown in bold and deletions shown in strikethrough:

6.4.1 Applicability. The following types of activities and uses require site plan review by the Planning Board:

1. Construction, exterior alteration or exterior expansion of, or change of use within a municipal, institutional, commercial, industrial or multi-family structure involving more than 500 **1,200** square feet;
2. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or ~~multi~~ **multi**-family structure or purpose;

To amend Article 6, Section 6.4.2. Exemptions by adding a new subsection "2.", as follows:

2. The construction or enlargement of any non-residential building, structure or use in any district where such construction will not exceed a total gross floor area of 1,200 square feet or will not generate the need for more than 5 parking spaces.

To amend Article 6, Section 6.4.3 Procedures by clarifying the permitting, by modifying the number of plan copies submitted, by requiring the publication and notification to abutters and by deleting Section 6.4.3.2. as follows with additions shown in **bold/underline** and deletions shown in strikethrough:

6.4.3 **Procedures.**

1. Use, Structure, or Activity Available As of Right **or Special Permit.** An application for a building permit to perform work as set forth in Section 6.4.1 available as of right shall be accompanied by an approved Site Plan. Prior to the commencement of any activity set forth in Section 6.4.1 or available as of right, the project proponent shall obtain site plan approval from the Planning Board. Applicants for site plan approval shall submit ~~five (5)~~ **fifteen (15)** copies of the site plan **and an electronic copy of all application materials** to the Planning Board for review, **and for distribution** to the Board of Health, Superintendent of Public Works, Police Chief, Fire Chief, the Building Inspector and the Conservation Commission for their advisory review and comments. ~~The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision.~~ **Approval for a site plan may be issued only after a public meeting held within sixty (60) days of the filing of an application with the Planning Board. It is the applicant's responsibility to obtain a certified list of names and addresses of all parties of interest, as defined in MGL Ch. 40A, Section 11, by the Assessing Office. The Planning Board shall notify all parties of interest by mail and notice of a public meeting shall be given by publication in a newspaper of general circulation in the town in each of two (2) consecutive weeks; the first publication to be not less than fourteen (14) days and the second publication not less than seven (7) days before the day of the meeting. Said notice and publication shall contain the name of the applicant, a description of the area or premises, street address, or other adequate identification of the location, the date and place of the public meeting, the subject matter of the hearing, and the nature of the action requested.** The decision of the Planning Board shall be upon a majority of those present and shall be in writing.

No building permit shall be issued by the Building Inspector **Commissioner** without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board.

- ~~2. Use or Structure Available by Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in Section 6.4.1 shall be accompanied by an approved Site Plan. Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the town Engineer, the Board of Health, Director of Public Works, Police Chief, Fire Chief, the Building Inspector and the Conservation Commission for their advisory review and comments. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt,~~

~~and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No special permit or variance shall be issued by the Board of appeals without the written approval of the site plan by the Planning Board, or unless 60 days lapse from the date of the submittal of the site plan without action by the Planning Board. Where the Planning Board approves a site plan "with conditions", and said site plan accompanies a special permit or variance application to the Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.~~

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

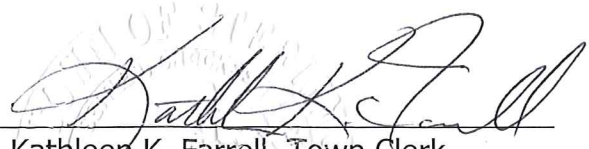
Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendations: Select Board recommends approval.

Summary: *This article modify the square footage trigger whereby projects under 1,200 SF do not require review or a waiver of technical compliance from the Planning Board, corrects a typographical error, adds a new subsection for exemptions whereby site plan is not required if construction or enlargement of any non-residential building does not exceed 1,200 SF or will not require more than 5 parking spaces and incorporate last year's Citizen's Petition to require abutter notification and legal ad for site plans in addition to delete a repetitive paragraph dealing Special Permits by including it all in a single paragraph.*

Motion Made by Patty Page to amend Article 6, Section 6.4 Site Plan Review as printed in the Warrant under Article 29.

Motion Passed by TW0-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 30. DISPLAY SETBACK** *(Consent)*

It was voted by consent Calendar to amend the Protective Bylaws, Article 2, Section 2.4.5. Display Setback by deleting the words "or signs over two (2) square feet in area"; the word "front"; and, to delete the word "similar commercial devices" and to replace it with "presentment" as follows with additions shown in **bold/underline** and deletions shown in strikethrough:

2.4.5 Display Setback. In all districts, open display of goods or products, gasoline, pumps, vending machine **or any such** similar ~~commercial devices~~ **presentment**, ~~or signs over two (2) square feet in area~~ shall be located not less than twenty (20) feet from any ~~front~~ lot line.

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Zoning Board of Appeals
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This proposed amendment, together with the proposed amendment in Article 31, will place all provisions regarding signs in one section of the town's Protective Bylaws. It will not change the current dimensional and setback requirements for signs.*

Motion Made by Pat Fox that the Town vote to amend the Protective Bylaws, Article 2, Section 2.4.5. as printed in the Warrant under Article 30.

Motion Passed by TW0-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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Sterling Airport, 121 Greenland Road

***ARTICLE 31. SIGNS** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 3, Section 3.1. as follows:

Add a new sub-section "(f)" to Section 3.1.1 to read as follows: "signs over two (2) square feet in area shall be located not less than twenty (20) feet from the lot line."

Add a new sub-section "(e)" Section 3.1.2 to read as follows: "signs over two (2) square feet in area shall be located not less than twenty (20) feet from the lot line."

Add a new sub-section, Section 3.1.3 to read as follows: "Authorization for Special Permit". The following regulations shall apply, unless otherwise authorized by a special permit issued by the Zoning Board of Appeals."

Or take any action in relation thereto.

Passage requires a 2/3rds vote.


Submitted by: Zoning Board of Appeals
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This article affords the ZBA more flexibility in addressing requests to vary from the requirements of the Protective Bylaw. Presently, applicants must file for a variance per MGL Ch. 40A, §10, making it extremely unlikely that signage variances could be granted. The amendments would not alter the specific requirements of the bylaws relating to dimensions, number of signs or setback requirements; instead, the proposed amendments would allow the ZBA to deviate from those requirements on a case by case basis, if the Board determines that the beneficial aspects of the application outweigh any detrimental impacts to the Town.*

Motion Made by Pat Fox to amend the Protective Bylaws, Article 3, Section 3.1. as printed in the Warrant under Article 31. **TWO-THIRDS VOTE**

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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***ARTICLE 32. DIMENSIONAL CONTROLS – MIXED USE BUILDING** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 2, Section 2.5.1 Table of Dimensional Controls by reducing the dimensional requirements in the Town Center zoning district for front yard from 40 feet to 0 and 15 feet; reducing side yard setback from 10 feet to 5 feet; and reducing rear yard setback from 25 feet to 5 feet; and adding a footnote to reference Section 2.4.1; and adding a second footnote to permit a greater front yard setback in the TC district with a Special Permit granted by the Zoning Board of Appeals for Residential Use, as follows with additions shown in **bold/underline** and deletions shown in strikethrough:

2.5.1 Single Family, Mixed-Use Building with Residential Dwelling Unit(s) and Nonresidential Buildings

ZONING	MINIMUM	MINIMUM	FRONT	EACH	REAR	FLOOR		
MINIMUM								
DISTRICT	LOT SIZE	LOT	YARD	SIDE	YARD	AREA		
LOT			FRONTAGE					
RATIO WIDTH								
Commercial ¹	----	----	40'	20'	25'	0.5	-----	
Town Center	----	----	40' 0 ²	10' 5	25' 5	--	--	---

¹ See Section 2.4.1.

² **In the Town Center zoning district, the maximum front yard setback for non-residential and mixed-use building with residential dwelling unit(s) (mixed-use defined as both non-residential and residential uses in a structure) is five (5) feet and for residential uses only is fifteen (15) feet unless a Special Permit by the ZBA is granted for a greater front yard setback.**

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: This article will reduce the dimensional requirements in the Town Center zoning district and adds references and footnotes to promote economic development opportunities. Many buildings in the Town Center are located on the lot line with the sidewalk and invoke a traditional

New England downtown core. These parcels of land are typically smaller in size so site constraints pose a great impediment to re/development. The existing minimum 40-foot front yard dimensional setback in the Town Center zoning district does not facilitate building placement with respect to existing patterns for the street on which it is located. Without this amendment, Sterling's iconic town center cannot be recreated and will be lost. Reducing the dimensional requirements promotes greater onsite maximization of development & reduces the quantity of structures that are currently non-conforming

Motion Made by Patty Page to amend the Protective Bylaws, Article 2, Section 2.5.1 as printed in the Warrant under Article 32.

Motion Passed by TW0-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





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***ARTICLE 33. USE REGULATIONS** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 2, Section 2.2.1. General, by deleting the words "PB – A use authorized under special permit from the Planning Board as provided under Section 6.3". Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This article seeks to remove wording that is not applicable to this section of Sterling's Protective Bylaw.*

Motion Made by Patty Page to amend the Protective Bylaws, Article 2, Section 2.2.1. as printed in the Warrant under Article 33.

Motion Passed by TW0-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





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***ARTICLE 34. DEFINITIONS – MIXED USE BUILDING** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 5, Definitions by inserting a new definition in alphabetical order for “Mixed Use Building with Residential Unit(s)” to read as follows:

“Mixed Use Building with Residential Dwelling Unit(s) shall mean residential units that are located in the rear, on the side and/or on the upper floors of business and commercial buildings with means of egress separate from the commercial use.”

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

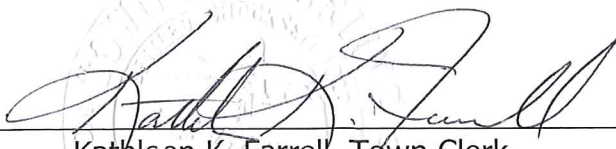
Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This article seeks to provide a definition for the new use.*

Motion Made by Patty Page to amend the Protective Bylaws, Article 5 as printed in the Warrant under Article 34. **TWO-THIRDS VOTE**

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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***ARTICLE 35. FREE STANDING UNINHABITED BUILDINGS** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 2, Section 2.5.4 "Free Standing Uninhabited Buildings" by inserting a paragraph at the end of the Section to read as follows:

"In the Town Center zoning district, free standing uninhabited buildings, regardless of square footage, shall be set a minimum of 5 feet from the side yard and rear yard lot lines. No freestanding uninhabited building shall be located between the principal inhabited building or principal structure and the front lot line."

Or take any action in relation thereto.

Passage requires a 2/3rds vote.


Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *The passage of this article will allow for the reduction in setbacks for free standing, detached, uninhabited buildings located in the Town Center zoning district. Currently, if this type of structure is over 500 SF, it would have to be located 40 feet back from the front lot line, which is out of character for the Town Center zoning district and is difficult to achieve on smaller lots.*

Motion Made by Patty Page to amend the Protective Bylaws, Article 2, Section 2.5.4 as printed in the Warrant under Article 35.

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



Town of Sterling
Office of the Town Clerk
One Park St, Butterick Municipal Bldg.
Sterling, Massachusetts 01564
Tel 978-422-8111 ext 2307 or 2308

EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 36. RATE OF DEVELOPMENT** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 4, Section 4.3 – Rate of Development, by deleting the entire text and replacing with “Reserved” and to amend the Table of Contents by deleting “Rate of Development” and all its related subsections and by inserting the following new text “Reserved” and to renumber all subsequent pages thereafter. Or take any action in relation thereto.

Passage requires a 2/3rds vote.


Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Motion Made by Patty Page to amend the Protective Bylaws, Article 4, Section 4.3 as printed in the Warrant under Article 36. **TWO-THIRDS VOTE**

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 37. SUBDIVISION PHASING** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 4, Section 4.3A – Subdivision Phasing by deleting the entire text and to amend the Table of Contents by deleting “Subdivision Phasing” and all its related subsections and to renumber all subsequent pages thereafter. Or take any action in relation thereto.

Passage requires a 2/3rds vote.

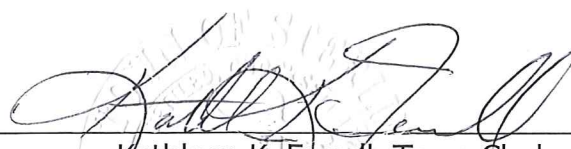
Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

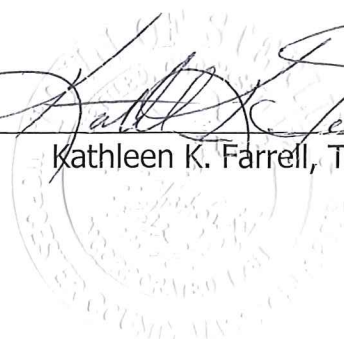
Summary: *This article seeks to remove this bylaw whereby not more than 7 building permits for a subdivision can be issued in any 12 month period. Sterling’s last subdivision (6 lots) was approved in 2005 – 16 years ago. If a subdivision of 7 or more lots gets approved, the building permit restriction increases the cost of the project, materials and labor, thus making the price of homeownership more burdensome.*

Motion Made by Patty Page to amend the Protective Bylaws, Article 4, Section 4.3A as printed in the Warrant under Article 37.

Motion Passed by TW0-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 38. ACCESSORY DWELLING UNIT USE** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 2, Section 2.3.5 by deleting Section 2.3.5 in its entirety and replacing it with a new Section 2.3.5 entitled "Accessory Dwelling Unit Use" as follows:

2.3.5 Accessory Dwelling Unit Use

Accessory Dwelling Units (ADUs) offer the potential for assisting homeowners to produce additional income to offset rising property taxes, maintenance and repair costs, and other housing expenses that are often a burden for some homeowners. ADUs also add tax revenue to the community based on the increase in square footage of living space. Adding moderately priced rental units to the housing stock to meet the needs of smaller households and making housing units available to moderate income households who might otherwise have difficulty finding housing is critical in providing affordable housing to all income ranges.

One ADU is permitted on each lot in Single Family Dwelling use in Rural Residence and Farming, Neighborhood Residence, Commercial, and Town Center Districts in the Town subject to this Section 2.3.5. ADUs are prohibited in the Light Industrial District.

(A) Use by Right or by Special Permit

- (1) By Right: Within a Single-Family Dwelling, including an attached garage.
- (2) By Special Permit from the Board of Appeals: As or within a detached Accessory Structure.

(B) ADU Requirements

Each ADU is subject to and shall comply with the following:

- (1) The owner of the lot shall reside in either the Single-Family Dwelling or ADU.
- (2) The ADU shall have a separate entrance from that used by the Single-Family Dwelling.
- (3) The ADU shall contain separate sanitary, sleeping and cooking facilities.
- (4) Prior to the issuance of a Building Permit or Special Permit for an ADU, the applicant shall provide written proof from the Board of Health (or its qualified agent) that there is an adequate supply of drinking water (town water or private well) and adequate provision for sewage disposal (private septic system).
- (5) For a by-right ADU, the outside appearance of the Single-Family Dwelling is and remains that of a Single-Family Dwelling.
- (6) The ADU shall have heat that is adequately supplied and controlled by a thermostat located within the ADU.

- (7) The ADU floor area shall not exceed eight hundred (800) square feet of living area, unless the lot owner complies with the provisions of Section 2.3.5(D), Affordability Restrictions for inclusion of the ADU on the Town's Subsidized Housing Inventory, in which case the floor area of the ADU may be up to 50% of the gross floor area of the Single-Family Dwelling or 1,200 square feet, whichever is smaller.
- (8) All turnaround and parking areas shall be provided on the Lot.
- (9) All dimensional controls set forth in Section 2.5 for a Single-Family use shall be met.
- (10) Daily, weekly or short term rentals less than thirty (30) days are prohibited.
- (11) On a nonconforming lot, that is nonconforming for lack of required lot area, an ADU is allowed following all of the requirements of this Section and Section 2.2.4 of these bylaws, as long as the lot is greater than 20,000 square feet.
- (12) Any new ADU shall conform to all adopted state and town laws, bylaws, codes, and regulations. No ADU shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.

C. New Construction

An ADU may be constructed as part of the original construction on a lot intended for Single-Family Dwelling use subject to the requirements of this Section 2.3.5.

D. Affordability Restrictions

In order for an ADU to count towards the Town's Subsidized Housing Inventory maintained by the Massachusetts Department of Housing and Community Development (DHCD), the lot owner and the Town shall submit a Local Action Unit application under the Local Initiative Program to DHCD. The lot owner and the Town shall do all things necessary to cause the ADU to be counted on the Town's Subsidized Housing Inventory (SHI). DHCD approval is required prior to the issuance of a building permit for an ADU exceeding 800 square feet of living area if affordability restrictions are being proposed.

To revise Article 5 Definitions by renaming and revising the definition for Accessory Apartment with Accessory Dwelling Unit, with additions shown in **bold/underline** and deletions shown in strikethrough:

"Accessory ~~Apartment~~ **Dwelling Unit (ADU)** shall mean a separate, complete dwelling unit that is; (a) contained substantially within the structure of a ~~one-family residence~~ **Single-Family Dwelling**, is served by a separate entry/exit and can be isolated from the principal ~~one-family dwelling unit~~ **Single-Family Dwelling Unit**, or (b) contained entirely within an attached or detached accessory building ~~that is an enclosed garage and that has the apartment located above the parking area for the motor vehicles.~~"

To revise Section 3.2.3(a) Table of Parking Requirements by replacing accessory apartment with accessory dwelling unit (ADU), with additions shown in bold and deletions shown in strikethrough:

3.2.3a Principal Uses: Single-family, single family with accessory ~~apartment~~ dwelling unit (ADU), two-family, or multifamily dwelling

To amend Section 2.3.1.A. Residential Uses by deleting #4 Accessory Apartment, as follows:

2.3 USE REGULATIONS

2.3.1 Table of Principal Uses.

PRINCIPAL USES

	DISTRICTS			
	RR	NR	C	TC
<u>LI</u>				
A. RESIDENTIAL USES				
4. Accessory Apartment	SP	SP	SP	SP

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Zoning Board of Appeals

Recommendation: Planning Board was split on the vote to approve.

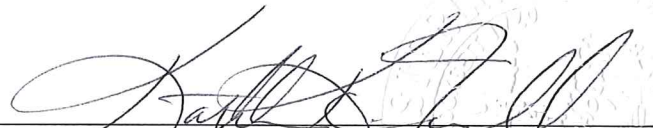
Recommendation: Select Board recommends approval.

Summary: *This article will enact one of the recommended action plan strategies cited from the Town's Housing Production Plan, updated in 2019, and will assist the town to increase its Subsidized Housing Inventory ("SHI") closer to 10% per 40B regulations. Passage of this bylaw will allow attached ADUs by right, and detached ADUs by Special Permit. Square footage for ADUs over 1,200 SF would be required to count towards the SHI; B) The new definition for ADUs revises the old Accessory Apartment use definition; C) Passage will replace the words "accessory apartment" with ADUs; and, D) Removes "Accessory Apartment" from the Table of Principal Uses because this use is not principal, but accessory.*

Motion made by Pat Fox to amend the Protective Bylaws, Article 2, Section 2.3.5 as printed in the Warrant under Article 38.

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



Town of Sterling
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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 40. MIXED-USE BUILDING WITH RESIDENTIAL DWELLING UNIT(S) (Consent)**

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 2, Section 2.3.1.A (Table of Principal Uses) to insert a new use, "Mixed Use Building with Residential Dwelling Unit(s)" to be permitted as a Special Permit in the "C" district and would be allowed by-right in the "TC" district and would be prohibited in the "RR", "NR" or "LI" districts as follows with additions shown in bold and deletions shown in strikethrough:

2.3 USE REGULATIONS

2.3.1 Table of Principal Uses.

PRINCIPAL USES
DISTRICTS

	RR	NR	C	TC	LI
<u>A. RESIDENTIAL USES</u>					
<u>Mixed Use Building with Residential Dwelling Unit(s)</u>	<u>N</u>	<u>N</u>	<u>SP</u>	<u>Y</u>	<u>N</u>

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Planning Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This article will permit mix-use development in the Town Center zoning district. The traditional New England Town Center, whereby there is a mix of commercial and residential uses within buildings, is not currently permitted in Sterling's Protective Bylaw. Additionally, this use would be required by Special Permit in the Commercial zoning district.*

Motion Made by Patty Page to amend the Protective Bylaws, Article 2, Section 2.3.1.A as written in the Warrant under Article 40.

Motion Passed by TW0-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

***ARTICLE 41. USE REGULATIONS FAMILY CHILD CARE** *(Consent)*

It was voted, by Consent Calendar, to amend the Protective Bylaws, Article 2, Section 2.3.1. Table of Principal Uses, as shown, with additions shown in **bold/underline** and deletions shown in strikethrough:

2.3 USE REGULATIONS

2.3.1 Table of Principal Uses.

PRINCIPAL USES DISTRICTS

	RR					NR
C	TC	LI				
<u>B. EXEMPT USES AND COMMUNITY FACILITIES</u>						
3. Licensed day care facility for the day care of six or fewer children	Y	Y	Y	Y	Y	
<u>Family child care home, large family child care home</u>						
4. Child care facility	Y	Y	Y	SP Y	Y	
<u>C. COMMERCIAL USES</u>						
8. Commercial Recreation or Sports Facility	SP	N	Y	N	NY	
15. Retail Sales, including antique shops	N	N	Y	Y	NSP	
16. Service, repair, or trade shop	N	N	Y	Y	NY	
17. Business or professional office	N	N	Y	Y	NY	
20. Open air display area; outdoor retail sales	N	N	SP	SP	NSP	
21. Motor vehicle service station	N	N	SP	SP	NSP	
23. Sale or rental of new or used cars <u>and trailers</u> in open lot	N	N	SP	N	NSP	
<u>D. INDUSTRIAL, WHOLESALE OR EXTENSIVE USES</u>						
5. Open lot storage of building materials, contractor's equipment	N	N	NSP	N	Y	
8. Manufacturing, assembly, processing, packaging or other industrial operation <u>with or without retail and/or showroom component</u>	N	N	NSP	N	Y	

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Zoning Board of Appeals
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *Passage of this article will help to promote economic development and permits uses currently in demand in its appropriate zoning district.*

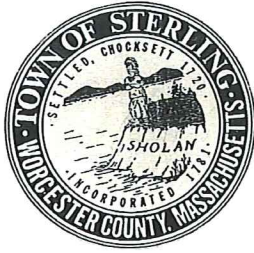
Motion Made by Pat Fox to amend the Protective Bylaws, Article 2, Section 2.3.1. as printed in the Warrant under Article 41.

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





Town of Sterling
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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 43. PARKS GENERAL BYLAW - SHOLAN PARK

To see if the town will vote to amend Chapter 113 of the General Bylaws, relative to Parks, with deletions shown in ~~strike through~~ and additions shown in **bold/underline**, or take action in relation thereto:

Chapter 113. Parks

Article 1. Sholan Park

Section 1. Parking hours; overnight pass

- A. Parking at **and use of** Sholan Park is permitted only between **the hours of** 5:00 AM and 9:00 PM daily **and all persons must vacate and all vehicles must be removed by 9:00 pm,** unless otherwise posted **or permitted through issuance of an overnight pass.**
- B. ~~All visitors and vehicles must vacate the park by 9 PM unless an overnight pass has been issued by the Department of Public Works for the Town of Sterling.~~

Section 2. Parking

- A. Parking at Sholan Park is restricted to the designated parking area only.
- B. Only those vehicles displaying the appropriate Town of Sterling resident permit, a temporary guest or visitor pass, **a non-resident parking pass,** or emergency vehicles are authorized to park within this parking area. ~~Unauthorized vehicles parked in the parking area or undesignated areas are subject to a fifty dollar (\$50.00) fine and/or towing at the owner's expense.~~
- C. ~~Owners and/or operators of vehicles parked in violation are subject to non-criminal dispositions (citations) pursuant to MGL Chapter 40, Sec 21D, issued by the members of the Sterling Police Department. Payment for violations should be made to the Town Clerk for the Town of Sterling in person or by mail within (21) twenty one days of the alleged violation.~~

Section 3. Permits and Passes

- A. Permits and passes issued by the Town of Sterling, for the purposes described herein, remain the property of the Town. Permits and passes are non-transferable. Holders of permits and passes must make available the assigned registration, license and/or the permit or pass upon request. Unauthorized use of permits and passes **may result in suspension or revocation and/or the assessment of fines.** ~~are subject to revocation.~~
- B. A resident permit of appropriate design shall be issued upon proof of residency for a specific vehicle and must be affixed to said vehicle.
- C. Beginning April 1st of each year a limited number of non-resident parking passes shall be issued for a one year term on a first-come-first-served basis. Non-resident parking passes shall be issued for a specific vehicle and must be displayed unobstructed and in full view

on said vehicle dashboard. Non-residents will be charged a parking fee as determined by the Board of Selectmen. **Select Board.**

Section 4. Animals

- A. **Pets** Animals shall not be allowed on the beach and picnic areas of the Park. Violators are subject to a fine of \$25.00 for each offense.
- B. This section shall not apply to **service** animals, **as** defined by **the Americans with Disabilities Act or other applicable law, provided that said animals are under the handler's direct control at all times. Animals whose sole function is to provide comfort or emotional support are not service animals and shall be subject to the prohibition on pets.** ~~as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.~~
- C. ~~This section shall be enforced by the Animal Control Division of the Town of Sterling.~~

Section 5. Safety Rule

- A. Alcohol beverages are not permitted at Sholan Park.
- B. Residents and visitors must comply with all rules and regulations established for Sholan Park and designated swim areas.
- C. Boaters must comply with the current Massachusetts boating regulations and local by-laws, as posted.
- D. ~~These rules will be enforced by the Recreation Department staff and/or police department, as required.~~

Section 6. East Lake Waushacum

- A. East Lake Waushacum is a sensitive natural resource and subject to the spread of invasive aquatic weeds and mussels, as defined by the State's Department of Agricultural Resources.
- B. Recipients of a resident permit, guest, or visitor pass, **or non-resident permit** and ~~intending to use a boat, trailer and/or other equipment in the lake~~ are responsible to make sure **it that their boat, trailer or equipment** is free of invasive species before entering the **park/water** ~~park and water~~ **and must submit to inspections for said weeds and mussels.** The recipient also agrees, as a condition of accepting a resident permit or pass, that said boat, trailer and/or equipment is subject to inspection for weeds and mussel species.
- C. **Should any person refuse to submit to an inspection or attempt to enter with a vehicle, boat or equipment with visible weeds or mussels, they will be denied entry.** ~~Any evidence of weeds, mussels or denying the inspection will be sufficient cause to deny access to the boat ramp and parking area.~~
- D. **All vehicles, boats and equipment shall immediately be removed from the park and/or the water when ordered to do so.**

Section 7. Regulations

The Select Board may enact reasonable regulations relative to access to and the use of the properties subject to this Bylaw.

Section 8. Enforcement and Penalties

- A. **This bylaw may be enforced by any employee of the Town's Recreation Department, any member of the Town's Police Department, and/or any member of the Town's Animal Control Department (with respect to the presence of animals only).**
- B. **Whoever violates any provision of this Bylaw issued pursuant thereto may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law, if noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be \$300 for**

each offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

- C. Whoever violates any provision of this Bylaw may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the maximum penalty for each violation or offense shall be three hundred dollars (\$300). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- D. The Park Department may suspend or revoke any permit issued pursuant to this Bylaw for any violation of this Bylaw, or any other applicable General Law, regulation or bylaw. Any person aggrieved by such suspension or revocation may request a hearing before Select Board; provided, however, that the suspension or revocation shall remain in effect unless and until the decision is reversed or modified by the Select Board.
- E. Any person found on a property subject to this Bylaw outside of the designated hours or otherwise in violation of any provision of this Bylaw or any regulations issued pursuant thereto, will be considered a trespasser and will be asked to leave and if they refuse to do so they may be subject to arrest, in the discretion of the responding officer, pursuant to Massachusetts General Laws, Chapter 266, Section 120 or any other applicable law. Unattended vehicles found on the property after the designed hours and/or without proper proof of parking privileges may be towed at the owner's expense.
- F. The Town may enforce this Bylaw or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.


Submitted by: Conservation Commission
Recommendations: Select Board recommends approval.

Summary: This warrant article is an update to existing regulations in response to issues that have surfaced in the day-to-day operations at the Sholan Park area. The updates will enhance the Town's ability to enforce violations of existing regulations and noncompliance with inspections of boats that enter the East Lake. Inspections are especially important for boats that have been used outside of Sterling or are being brought in by a non-resident. The inspections and requirements that boats be free of any foreign debris is the most assured method of the prevention for nuisance weeds that enter the lake. The weeds, if allowed to take hold, can prevent residents from enjoying swimming and fishing activities traditionally available to the residents of the community.

Motion Made by Barbara Roberti to amend Chapter 113 of the General Bylaws, relative to Parks, as printed in the Warrant under Article 43 adding back lines 885 and 886.

Motion Passed by Majority as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



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One Park St, Butterick Municipal Bldg.
Sterling, Massachusetts 01564
Tel 978-422-8111 ext 2307 or 2308

EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 44. GROUNDWATER PROTECTION DISTRICTS

To see if the Town will vote to amend the Protective Bylaws by deleting Section 4.6 "Aquifer and Water Resource Protection Districts" and replacing it with the proposed "Groundwater Protection Districts" as printed in this Warrant as follows:

4.6 GROUNDWATER PROTECTION DISTRICTS

4.6.1 Purpose. The purposes of this Article, in addition to those enumerated in Article 1 of the Town of Sterling Protective By-laws are to:

- a. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the Town of Sterling;
- b. preserve and protect existing and potential sources of drinking water;
- c. conserve natural resources in the Town of Sterling; and
- d. prevent temporary and permanent contamination of the environment.

4.6.2 Scope of Authority

The Groundwater Protection Districts (GWPD) is an overlay district(s) superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction (any construction totaling 50% or more of the assessed value of an existing structure), or expansion of existing buildings and new or expanded uses. Compliance with this bylaw applies only to the portion of the lot or parcel that falls within the Groundwater Protection District. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection Districts.

4.6.3 Definitions

Aquifer: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

CMR: Code of Massachusetts Regulations.

Commercial Fertilizer: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, and other products exempted by state regulations.

Discharge: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.

Dry Well: A subsurface pit with open-jointed lining or holes through which storm-water drainage from roofs, basement floors, foundations or other areas seep into the surrounding soil.

Groundwater Protection Districts: The land area consisting of aquifers and Town of Sterling Zone II recharge areas as identified on a map and adopted pursuant to this bylaw.

Hazardous Material: Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.

Hazardous Waste: A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

Historical High Groundwater Table Elevation: A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

Impervious Surface: Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

Interim Wellhead Protection Area (IWPA): The MassDEP designated protection radius around a public water well that lacks a Zone II.

Landfill: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.

MassDEP: Massachusetts Department of Environmental Protection.

MGL: Massachusetts General Law.

Petroleum Product: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

Non-Sanitary Wastewater: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).

Open Dump: A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.

Recharge Areas: Land areas, such as a Zone II or Interim Wellhead Protection Area,

where precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

Septage: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.

Sludge: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the head-works of a facility

Small Quantity Generator: As defined in 310 CMR 30.000. Any public or private entity, other than residential, which generates between 100 kilograms and 1,000 kilograms a month of hazardous waste or waste oil and/or less than 1 kilogram acutely hazardous waste as defined in 310 CMR 30.136. The waste must be shipped in 90 days and accumulation is limited to 6,000 kilograms in tanks and containers for no more than 180 days.

Treatment Works: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

Utility Works: Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities. This term shall include the installation of detention and retention basins for the purpose of controlling storm water.

Very Small Quantity Generator: As defined in 310 CMR 30.000. Any public or private entity, other than residential, which generates less than 100 kilograms a month of hazardous waste or waste oil, generates no acutely hazardous waste as defined in 310 CMR 30.136 and accumulates no more than 1,000 kilograms at any one time.

Waste Oil Retention Facility: A waste oil collection facility for automobile service stations, retail outlets, and marinas which is sheltered and has adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21. s.52A. 4.7.4

Zone II: The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00.

4.6.4 Establishment and Delineation of Groundwater Protection Districts

- (a) The Groundwater Protection Districts are all land areas in the town of Sterling which overlie those portions of the Aquifer which have a potential well yield greater than one hundred (100) gallons per minute as shown in the USGS Hydrological Investigation Atlas 276 (Water Resources of the Nashua and Souhegan River Basins. Massachusetts, by Richard A. Brackley 1977), and any future refinements thereof.
- (b) The Groundwater Protection Districts are all land areas in the town of Sterling which are within either a delineated Town of Sterling Water Department Zone II or are within a one-half mile radius of an existing municipal well which has no delineated Zone II.
- (c) The boundaries of the Districts, as presented on any plan, must meet the approval of the Planning Board. Where bounds as delineated are in doubt or in dispute, the burden of proof shall be on the owner(s) of the land in question to show where they should

properly be located.

4.6.5 District Boundary Disputes

- (a) If the location of the Groundwater Protection District in relation to a particular parcel is in doubt, resolution of the boundary dispute shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation.
- (b) Burden of proof shall be upon the land owner to demonstrate that the location of the Groundwater Protection District with respect to a particular parcel(s) of land is uncertain. At the request of the land owner, the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the Groundwater Protection District with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation.

4.6.6 Uses Regulations

- (a) Within the Groundwater Protection Districts the requirements of the underlying districts continue to apply except as modified in Table 4.6.6 below. In Table 4.6.6, uses which are prohibited are indicated with an "N", uses which require a special permit are indicated with an "SP" and uses which are permitted are indicated with a "Y".

Table 4.6.6 Groundwater Protection Districts Use Regulation

	Type of Use	GWPD
1	Landfills and open dumps.	N
2	Automobile graveyards and junkyards.	N
3	Landfills receiving only wastewater residuals and/or septage, including those approved by MassDEP pursuant to MGL c. 21 §26 through §53, MGL c.111 §17, and MGL c.83 §6 and §7.	N
4	Facilities that generate, treat, store, or dispose of hazardous waste that are subject to MGL c. 21C and 310 CMR 30.00, except for the following:	N
	a. Very small generators as defined under 310 CMR 30.000;	Y
	b. Small generators as defined under 310 CMR 30.000;	SP
	c. Household hazardous waste centers and events under 310 CMR 30.390;	Y
	d. Waste oil retention facilities required by MGL c. 21, §52A;	Y
	e. Water remediation treatment works approved by the MassDEP for the treatment of contaminated waters;	Y
5	Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas.	N
6	Storage, use or production of liquid or solid hazardous materials or liquid petroleum products except for the following:	N
	a. Within a building, or other structure, above ground level and on an impervious surface which by design* will contain any release, or storage which is within an aboveground double walled container capable of containing 110% of the primary container's contents and with additional precautionary measures to protect from vandalism,	Y

	corrosion, or other environmental factors and whose piping and/or other related equipment includes similar safeguards;	
	b. Outdoors in covered container(s) above ground level and on an impervious surface or above ground tank(s) on an impervious surface which by design* will contain any release, or storage which is within an aboveground double walled container capable of containing 110% of the primary container's contents and with additional precautionary measures to protect from vandalism, corrosion, or other environmental factors and whose piping and/or other related equipment includes similar safeguards;	Y
	c. Approved portable containers related to normal building and property use;	Y
	d. Emergency electrical generators required by statute, rule or regulation;	Y
	e. Treatment works approved by the MassDEP designed in accordance with 314 CMR 5.00 for the treatment of contaminated ground or surface waters;	Y
	f. Building heating;	Y
	g. Waste oil retention facilities required by MGL c. 21, §52A; and	Y
	Provided that such storage listed in d, e, f and g are within a building, or other structure, which by design* will contain any release, or storage which is within an aboveground double walled container capable of containing 110% of the primary container's contents and with additional precautionary measures to protect from vandalism, corrosion, or other environmental factors and whose piping and/or other related equipment includes similar safeguards.	
7	Storage of sludge and septage as defined in 310 CMR 32.05 except for the following:	N
	a. Storage must be in compliance with 310 CMR 32.30 and 310 CMR 32.31.	Y
8	Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater except for the following:	N
	a. The replacement or repair of an existing treatment works that will not result in an increase in design capacity of the existing treatment works;	Y
	b. Treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and	Y
	c. Publicly owned treatment works.	Y
9	Individual sewage disposal except for the following:	N
	a. Systems designed in accordance with 310 CMR 15.00 having the leaching area of the system a minimum of six (6) feet above the high ground water elevation as measured in accordance with 310 CMR 15.101, 15.102 and 15.103.	Y
10	Outdoor storage of deicing chemicals (such as but not limited to sodium chloride, calcium chloride, etc.) and chemically treated abrasives or other chemicals used for the removal of ice and snow on roads except for the following:	N

	a. Where enclosed to prevent generation and escape of contaminated runoff or leachate.	Y
11	Storage of animal manure, except for the following:	N
	a. Quantities generated on site incidental to household garden use. Storage must be covered and contained in accordance with specification of the United States Soil Conservation Service;	Y
	b. Quantities generated off site.	N
12	Storage of commercial fertilizers except for the following:	N
	a. Where covered to prevent generation and escape of contaminated runoff or leachate.	Y
13	Stockpiling and disposal of snow and ice that contains deicing chemicals that is imported from outside the Groundwater Protection Districts.	N
14	The removal of soil, loam, sand, gravel or any other mineral substances within six (6) feet of the historical high groundwater table elevation. Excavations for the construction of building foundations, the installation of utility works, and the dredging or maintenance of water bodies and drainage systems are permitted without a Special Permit.	SP
15	Floor drain systems located in a hazardous material or hazardous waste process area or hazardous material of hazardous waste storage area within a commercial or industrial facility and which discharges to the ground without a MassDEP permit or authorization. Any existing facility with such a system shall be required to either seal the floor drain in accordance with the state plumbing code 248 CMR 10.00, connect the drain to a municipal sewer system (with all appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate MassDEP regulations and policies.	N

*Town of Sterling may require documentation to be submitted by the owner/operator with regards to the integrity of such design.

4.6.7 Additional Requirements for Permitted Uses.

- (a) All runoff from impervious surfaces or otherwise due to industrial and commercial development, or due to the construction of new roads, shall be recharged on site by being diverted to stormwater infiltration basins covered with natural vegetation for surface infiltration to the greatest extent possible, or as otherwise directed by the Planning Board. Dry wells and leaching catch basins, when allowed by the Planning Board must be preceded by oil, grease and sedimentation traps to facilitate removal of contaminants. Commercial and Industrial infiltration and recharge structures shall be kept permanently in full working order by the owner of the site. A maintenance report for the operation of the recharge system(s) shall be submitted annually to, and approved by, the Planning Board and Conservation Commission to assure that the methods used for on-site recharge and infiltration remain effective.
- (b) All lawful uses not prohibited by the Article 4.6 which are wholly or partially within the areas regulated by the Article 4.6 and which are required to undergo site plan review under Article 6.4 of the Town of Sterling Protective Bylaw must conform to the following as part of that site plan review:
 - (1) The site plans must delineate the boundaries of the Groundwater Protection District(s),
 - (2) The plans will state the proposed use(s),

- (3) The Planning Board must be satisfied that the project has been designed to eliminate any significant threat of contamination to the ground water. In making such a determination, the Planning Board shall give consideration to the simplicity, reliability and feasibility of the control measures proposed and the degree and threat to water quality which would result if the control measures fail. Any modifications, deletions or additions to the plans required by the Planning Board for the purposes of insuring protection of the ground water must be made prior to the issuance of any Building Permit or Certificate of Use and Occupancy.

4.6.8 Pre-existing Uses and Structures.

- (a) Structures. Any existing structure, or use of such structure, lawful on the effective date of this Article 4.6 may continue although such structure does not conform to the requirements of this Article 4.6. Any such existing structure may be repaired, enlarged, maintained and improved, however, any enlargement greater than a one-time enlargement of 2,500 square feet or less must conform to the regulations contained in this Article 4.6.
- (b) Uses. Any existing use lawful on the effective date of this Article 4.6 may continue although such use does not conform to the requirements of this Article 4.6. Any change, expansion, extension or repair of such non-conforming use must, however, conform to the regulations contained in this Article 4.6, and must conform as much as possible, in the opinion of the Planning Board, to the regulations contained in this Article and to the regulations of the Town of Sterling.
- (c) Hardship. To avoid undue hardship, nothing in this Article 4.6 shall be deemed to require a change in the design, construction or use of any structure with respect to which a building permit was legally issued prior to the effective date of this Article 4.6 and such building permit had not lapsed prior to the start of construction.

4.6.9 Special Permit Procedures

Special Permits required under this Article 4.6.9 shall be in addition to, and separate from, any other Special Permit required under any article of this Zoning Bylaw or any other law or regulation. The town of Sterling Planning Board is hereby established as the Special Permit Granting Authority under Article 4.6 Groundwater Protection Districts. Special Permits required under this Article 4.6 shall be issued in accordance with Article 6.3 of the Zoning Bylaw, and in accordance with the additional requirements specified below:

- (a) Special Permit Requirements. A Special Permit shall only be granted if the Permit Granting Authority determines that the intent of this bylaw as well as its specific criteria are fully met.
- (b) Application Requirements. Requests for a Special Permit shall be made in writing and clearly state the provision or requirement from which the Special Permit is sought. The following application requirements are the minimum criteria for submitting a complete application:
 1. In addition to the copy filed with the Special Permit Granting Authority, copies of the application for Special Permit shall be filed by the applicant with the Board of Health, Conservation Commission, Building Inspector, Department of Public Works, Police Department and Fire Department.
 2. A site plan, prepared by a professional engineer or land surveyor, showing

existing and proposed structures and facilities. Minimum requirements for information included on the site plan are outlined in Article 6.4.4.

3. A description of the proposed work plan including a construction schedule.
 4. A description of measures that will be taken to ensure that the quantity and quality of on-site groundwater recharge will not be significantly diminished by the proposal.
 5. A description of all chemicals, pesticides, fuels, or other potentially toxic or hazardous materials to be used, generated, or stored on the site; together with a description of pre-cautionary measures that will be taken to protect from vandalism, corrosion, leakage, or other adverse environmental effects;
 6. Identify any public or private wells and surface water, and the distance between proposed activities or uses.
- (c) Inter-Agency Review. Upon receipt of the application, the agencies listed in 4.6.9 (b) 1. shall review the application and make recommendations as they deem appropriate to the Special Permit Granting Authority. Failure of the reviewing parties to make recommendations within thirty-five (35) days after having received copies of all such required materials shall be deemed a lack of opposition thereto,
- (d) Public Hearing. The public hearing shall be given in accordance with Article 6.3.3.
- (e) Decision Process. The Special Permit Granting Authority's decision shall consider the accuracy of the information provided in the application, the reliability of the proposed control measures, and recommendations of the other review boards, and shall issue its decision in accordance with MGL c.40A unless said period is extended in accordance with MGL c.40A. The Special Permit Granting Authority may only grant a Special Permit if it finds that the proposed use:
1. Is in harmony with the purpose and intent of this Bylaw; and
 2. It will not be detrimental or injurious to the Groundwater Protection Districts.
- (f) Posting. The Special Permit or a clear and concise summary of the Special Permit shall be posted in a conspicuous location at or near the operation, facility, or system requiring said permit.

4.6.10 Enforcement and Violations.

The enforcement of this Article 4.6 shall be as described in Article 6.1.2 and 6.1.3 of this Bylaw and General Bylaw, III, §1-7 to §1-9

4.6.11 Savings Clause.

If any subsection or part thereof of this Article 4.6 is held to be invalid the remainder of this Article 4.6 shall not be affected thereby.

Or take any action in relation thereto.

Passage requires a 2/3rds vote.


Submitted by: Select Board
Recommendation: The Planning Board recommends approval.
Recommendation: Select Board recommends approval.

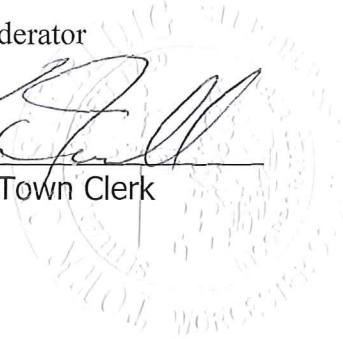
Summary: *This article is based and is closely modeled upon the Massachusetts' Department of Environmental Protection ("MassDEP") Groundwater Protection District Bylaw that complies with MassDEP's Wellhead Protection Regulations 310 CMR 22.21(2). The Town's existing Section 4.6 Bylaw is much more restrictive than the model bylaw. Sterling's current bylaw confusingly uses the terms "Aquifer" and "Water Resource" and incorrectly assigns permit granting authority to the Board of Health, contrary to state statute.*

Motion Made by Joe Curtin to amend the Protective Bylaws as printed in the Warrant under Article 44.

Motion Passed by **TWO-THIRDS VOTE** as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





Town of Sterling
Office of the Town Clerk
One Park St, Butterick Municipal Bldg.
Sterling, Massachusetts 01564
Tel 978-422-8111 ext 2307 or 2308

EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 45. GROUNDWATER PROTECTION DISTRICTS – CITATIONS

To see if the Town will vote to amend the Protective Bylaws, as follows:

Table of Contents by amending the Table of Contents by deleting “Aquifer and Water Resource Protection Districts” and existing subsections 4.6.1-4.6.9, and replacing that with “Groundwater Protection Districts” and new subsections 4.6.1-4.6.11, to Amend Article 4.6 to rename, reorganize and renumber all the related subsections accordingly and to renumber all subsequent pages thereafter.

Article 2, Section 2.1.1. Establishment, by deleting the words “Aquifer and Water Resource Protection District” and replacing it with “Groundwater Protection Districts.”

Article 4, Section 4.7.3., by deleting the words “Aquifer and Water Resource Protection Districts” and replacing it with “Groundwater Protection Districts.”

Article 4, Section 4.7.5.2(b)(i), by deleting the words “Aquifer and Water Resource Protection Districts Bylaw 4.6.5 (c)” and replacing it with “Groundwater Protection Districts.”

Article 4, Section 4.7.5.2(d), by deleting the words “Aquifer and Water Resource Protection Districts By-law” and replacing it with “Groundwater Protection Districts.”

Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Planning Board
Recommendation: The Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: These proposed changes are “housekeeping” in nature with language updates that will replace the former bylaw reference with the new proposed name in all instances of the Protective Bylaw.

Motion Made by Joe Curtin to amend the Protective Bylaws as printed in the Warrant under Article 45.

Motion Passed by **TWO-THIRDS VOTE** as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



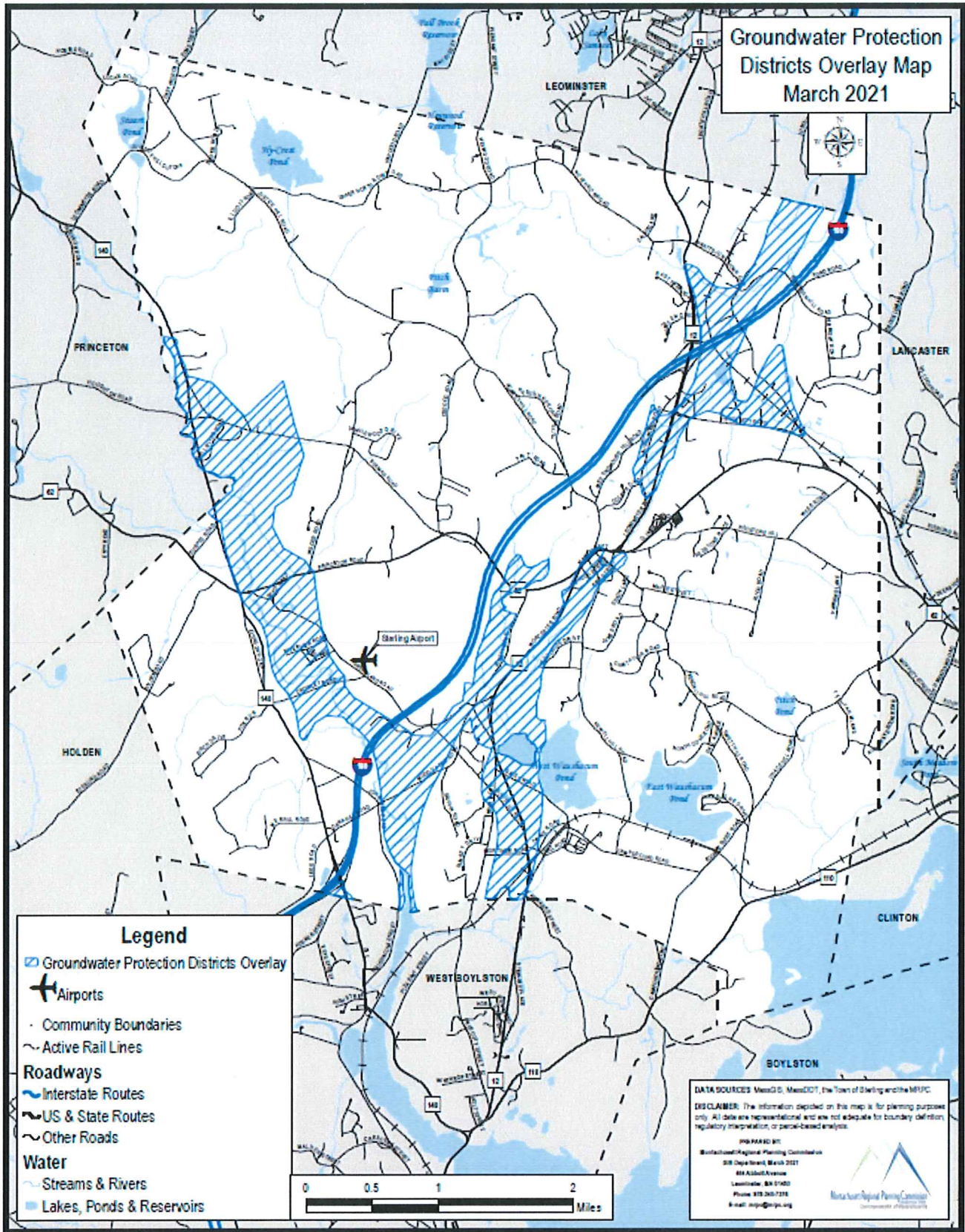


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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 46. GROUNDWATER PROTECTION DISTRICTS - OVERLAY MAP

To see if the Town will vote to amend the Protective Bylaws by deleting the Aquifer and Water Resource Protection Overlay District Map and replace it with the proposed Groundwater Protection Districts Overlay Map.



Or take any action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by:	Planning Board
Recommendation:	Planning Board recommends approval.
Recommendation:	Select Board recommends approval.

Summary: The proposed new overlay encompasses Sterling's Zone II areas, being the high and medium yield zones. The current overlay is overly broad and contains, high, medium and low yield zones, in addition to extra extraneous locations. Pursuant to 310 CMR 22.21(1)(e), Sterling is not legally bound to provide land use prohibitions/controls in this area as it does not own or operate the Leominster wells.

Motion Made by Joe Curtin to amend the Protective Bylaws as printed in the Warrant under Article 46.

Motion Passed by TWO-THIRDS VOTE as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk



Town of Sterling
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Sterling, Massachusetts 01564
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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 47. EARTH REMOVAL - GENERAL BYLAW

To see if the Town will vote to amend the General Bylaws by removing the entire Chapter 63 Earth Removal and replacing with a new Chapter 63: Earth Removal, as follows:

Chapter 63: Earth Removal

§ 63-1 Purpose.

The purpose of this bylaw is to protect the health and safety of the public by regulating the removal of earth, with consideration given to the natural topography of the Town of Sterling (i) to avoid creating hazardous conditions, washouts, excessive dust, or noise and (ii) to protect natural resources within the Town of Sterling.

§ 63-2 Definitions.

Earth

"Earth" shall include soil, loam, sand, gravel, clay, rocks, minerals, or other earth material.

Permit Granting Authority (PGA)

The Select Board of the Town of Sterling is authorized to grant permits for earth removal pursuant to this Bylaw.

Quarrying or Mining

"Quarrying or mining" shall mean earth removal for the purpose of extracting soil, loam, sand, gravel, clay, rocks, minerals, or other earth material, including establishments engaged in operating sand and gravel pits and in washing, screening, or preparing sand and gravel for construction or industrial uses. "Quarrying or mining" shall exclude grading of a lot in preparation for the construction of a structure or associated appurtenances for which a building permit or other similar permit has been issued by the town.

§ 63-3 Permit Required.

The following earth removal operations are required to obtain an earth removal permit from the PGA under this bylaw:

- A. Quarrying or mining operations.
- B. Earth removal from a single lot or a single site, unless exempt pursuant to §63-4.

§ 63-4 Exemptions from Permit Requirements.

The following earth removal operations are exempted from the requirement to obtain

an earth removal permit under this bylaw.

- A. Earth removal of less than an aggregate of 1,000 cubic yards *in situ* from a single lot or a single site within any five (5) year period (commencing on the date the Notification of Intent is filed with the PGA) and not in connection with a building permit granted by the Town of Sterling shall not require a permit under this bylaw, but operations shall be required to comply with the Earth Removal Operation Criteria set forth in §63-7. In order to claim this exemption, the owner of the lot or site shall, at a public meeting of the PGA, file a Notice of Intent for Earth Removal with the PGA indicating full compliance with the Earth Removal Operation Criteria.
- B. Earth removal from a single lot or a single site in connection with a building permit granted by the Town of Sterling, so long as the quantity shall not exceed 110% of the amount of material displaced by the below grade portion of the construction of permitted building or structure.
- C. Earth removal associated with the installation of septic systems shall be governed by the Commonwealth of Massachusetts Environmental Code (Title 5, 310 CMR 15.000), provided that the quantity of materials removed shall not exceed the amount of material displaced by the permitted septic system components (septic tank, distribution box, pump chamber, dosing chamber, grease trap, manhole and soil absorption system) below grade as approved by the Board of Health.
- D. Earth removal from one parcel of land to a contiguous parcel of land, held in common ownership and located within the Town of Sterling, subject to compliance with the Earth Removal Operation Criteria in §63-7. If there is a group of parcels that are (i) contiguous to each other, (ii) held in common ownership and (iii) located within the Town of Sterling, earth removal from one parcel of land in the group to any other parcel of land in the same group is exempt under this section. For example, an owner of four contiguous parcels on a public way would be allowed to remove earth from parcel one to parcel four since all four parcels are contiguous with at least one other parcel in the same group.
- E. Earth removal from any parcel of land in a definitive subdivision subject to the subdivision control process under Massachusetts General Laws Chapter 41, as amended, that has been approved by the Planning Board. In this instance, the Planning Board shall have full authority to regulate the amount and disposition of earth to be removed from such parcel(s) of land shown on the subdivision plan.
- F. Earth removal required for a certain parcel of land subject to the town of Sterling Site Plan Review process as defined in Article 6, Section 6.4 of the Town of Sterling Protective Bylaws as amended that has been approved by the Planning Board. In this instance, the Planning Board shall have full authority to regulate the amount and disposition of earth to be removed from such a site as shown on the site plan.
- G. Earth removal for land falling within the Town's Wetland Resource Area and associated buffer zones shall be governed by the Wetland Protection Act, MGL Chapter 131, Section 40, administered solely by the Town of Sterling's Conservation Commission.
- H. Earth removal operations in continuous operation prior to November 12, 1973 are permitted to continue on the same parcel(s) of land as existed on the date of adoption of this amendment; provided, however, an expansion of such earth

removal operations to a new or additional parcel(s) of land following the adoption of this Bylaw amendment shall require an earth removal permit consistent with this Bylaw.

- I. Earth removal from land in public use, including the extraction and processing for road maintenance materials and safety by the Town of Sterling from municipal-owned property by the Town of Sterling's Department of Public Works.
- J. Earth removal for the construction, maintenance and repair of existing public roadways or the installation of public utilities and appurtenances.
- K. Earth Removal related to the construction, repair, and maintenance of fire ponds, being an engineered design structure with hydraulic capacity and a withdrawal mechanism such as a dry barrel hydrant, shall be under the jurisdiction of the Conservation Commission.
- L. Earth removal required in the customary use of land for agriculture of less than an aggregate of 1,000 cubic yards *in situ* on a single lot within any five (5) year period (commencing on the date of the Notification of Intent is filed with the PGA), subject to compliance with the Earth Removal Operation Criteria in §63-7.
- M. Any of the exempted earth removal operations listed in §63-4 A through L shall be exempted from any fees for earth removal operations.

§ 63-5 Public Hearing.

After a complete new permit application has been filed, the PGA shall set a date for a public hearing under this General Bylaw and so notify the applicant. Notice of the hearing shall be given as follows:

- A. The PGA shall publish a notice in a newspaper of general circulation in each of two successive weeks, the first publication being not less than 14 days before the day of the hearing.
- B. The applicant shall give written notice of the hearing to all abutters and abutters to the abutters within three hundred (300) feet of the property line as shown on the most recent tax list certified by the Board of Assessors. The applicant shall mail the written notice of the hearing to the abutters and abutters to the abutters by regular U.S. mail no less than fourteen (14) days prior to the hearing. The applicant shall request a certificate of mailing from the post office and provide it to the PGA as proof of mailing.

All publication and mailing costs shall be borne by the applicant. Final approval for the permit shall not be made until all hearing fees have been paid in full.

§ 63-6 Submission and Plan Requirements.

The form of the application for an earth removal permit as well as plan requirements shall be determined in accordance with rules and regulations adopted by the PGA.

§ 63-7 Earth Removal Operation Criteria.

All earth removal operations shall comply with the Earth Removal Operation Criteria listed below, unless specifically waived or modified by the PGA at a public meeting. Applicants shall submit a written statement certifying how each of the following criteria shall be addressed and/or mitigated.

All earth removal operations:

- A. Shall be in compliance with the Massachusetts Endangered Species Act and the Wetlands Protection Act.
- B. Shall be respectful of and work with the natural topography in order to minimize, wherever appropriate, the amount of cut and/or fill on the premises.
- C. Shall not endanger the public safety, public health or constitute a nuisance.
- D. Shall not produce noise, dust, or other noxious effects beyond the lot lines of the property.
- E. Shall not result in the transportation of materials in such manner as to cause traffic congestion, dust, spillage, noise, or other nuisances, hazards or damage, particularly on residential streets or adjacent land.
- F. Shall not result in a change of topography or loss of ground cover that shall cause soil erosion, increased rate of stormwater runoff or adversely impact drainage on the site, adjacent streets or abutting properties.
- G. Shall not cause pollution or particle infiltration to surrounding watercourses or groundwater.
- H. Shall not result in the removal/stripping of loam in an amount that would leave less than six (6) inches of organic soil cover that shall be reseeded, unless waived by the PGA, to provide vegetative cover and be maintained until the area has been stabilized.
- I. Shall not create a slope greater than five (5) feet in height that exceeds 1 vertical unit to 2 horizontal units (1:2) and does not exceed twenty (20) feet in vertical height except when in *competent* bedrock as determined by a geotechnical engineer. In *competent* bedrock earth removal shall not create a slope greater than five (5) feet in height that exceeds 1 vertical unit to 1 horizontal unit (1:1) and does not exceed twenty (20) feet in vertical height.
- J. Shall not encroach a distance of ten (10) feet from any property line.
- K. Shall have a lowest excavated point no less than six (6) feet above the existing seasonal high groundwater table except when incidental to the construction for which a building permit has been obtained. To ensure this depth the applicant shall, at applicant's expense, install observation wells in accordance with the designated agent of the Town of Sterling's Board of Health.

The PGA may issue an order to any earth removal operation that does not appear to comply with the Earth Removal Operation Criteria (i) to submit evidence that it does comply, (ii) to bring the earth removal operation into compliance with this Bylaw, and/or (iii) to obtain an earth removal permit.

§ 63-8 Site Standards, Requirements and Operations.

In approving the issuance of a permit, the PGA shall require conformity with the standards and requirements set forth below. The PGA may, where appropriate under the circumstances, waive, modify, state more specifically, or add to the following standards and requirements provided that the intent of this Bylaw is maintained and the Earth Removal Operation Criteria stated in §63-7 are observed. Any deviations from the

following standards and requirements shall be stated as conditions to and noted upon the permit.

- A. All non-exempted earth removal operations in §63-3 shall be required to be accompanied with an initial Close Out or Reclamation Plan in addition to a non-waivable statement as stipulated by the PGA, and stamped by a Professional Civil Engineer attesting that all Earth Removal Operation Criteria in §63-7, except those for which the PGA has issued a waiver, shall be met for the duration of the earth removal. Following completion of earth removal operations, the applicant shall provide a final Close Out or Reclamation Plan as stipulated by the PGA, stamped by a Professional Civil Engineer, along with a report or a statement signed by a geotechnical engineer stating that the geotechnical engineer has inspected the site prior, during and upon completion of earth removal operations and certifying the structural integrity of the site and related slopes as shown on the final plan.
- B. The contractor hired to perform the earth removal or the applicant, if the applicant shall be the entity performing the earth removal, shall provide the Town with a current certificate of liability insurance in the amount of \$1 million per occurrence and \$3 million in the aggregate, issued by an insurance company licensed in Massachusetts, and if the earth removal work abuts Town-owned land or a Town accepted way, the certificate of liability shall name the Town as an additional insured. The applicant shall be responsible for providing the Town with a current certificate of insurance throughout the duration of the earth removal operations.
- C. The site standards and requirements include:
 - (1) Except for fire ponds as provided in §63-4 K, no area shall be excavated so as to cause the accumulation of free-standing water. Permanent drainage shall be provided as needed in accordance with accepted engineering and conservation practices. Measures shall be taken to insure that silting and sedimentation of nearby streams is not caused by a temporary or permanent drainage system on site. Drainage shall not lead directly into streams, ponds, abutting properties nor shall drainage from access roads drain directly onto public ways.
 - (2) If erosion control structures are utilized, these devices shall be in place and stabilized before excavation can begin in the affected area. These structures shall be inspected and maintained in accordance with the approved plan and the capacity of the structural device.
 - (3) If the earth removal operation occurs in phases, one phase shall be completed and seeded, unless waived by the PGA prior to the commencement of the next phase.
 - (4) Quarrying or mining operations shall be contained within the current property limits, as shown on the plan. The expansion to additional property must be authorized by a new permit by the PGA.
 - (5) During earth removal operations, a fence or suitable barrier shall be erected, as deemed necessary and approved by the PGA.
 - (6) Operations shall be conducted during the hours 7:00 A.M. to 5:00 P.M., Monday through Saturday. No earth is to be excavated or removed on Sundays or Massachusetts legal holidays. These hours of operation may be altered only upon written authorization of the PGA. Loaded trucks shall leave the premises

only during permitted hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load.

- (7) All trucking routes and methods may be subject to approval by the Chief of Police and the Superintendent of Public Works.
 - (8) Earth removal permits are only transferable upon approval of the PGA in its sole discretion and shall automatically expire on the earliest to occur of (i) one year from the date of issuance, (ii) completion of the earth removal for which it was issued, or (iii) at such time as may be specified in the permit. In no case shall a permit be issued for a period longer than one year. A permit may be renewed by the PGA in its sole discretion after evidence is presented that (i) all conditions of the expiring permit have been complied with and (ii) the work authorized under the permit was delayed for good cause. All renewal applications shall be filed not more than 90 days nor less than 30 days prior to the expiration of the then current permit and shall include a copy of the previous conditions of approval. When the applicant intends to increase the scope of the earth removal, a new application and public hearing shall be required.
- D. This bylaw was adopted in conjunction with eliminating a requirement in the Protective Bylaws of the Town of Sterling that an applicant be granted a variance by the Zoning Board of Appeals for earth removal over 1,000 cubic yards if the lot or site was located in a Rural Residential (RR) or Neighborhood Residential (NR) zoning district. That requirement was deemed to be too restrictive. Therefore, any permits granted by the PGA under this bylaw will be at the reasonable discretion of the PGA, taking into account all of the facts and circumstances of the application, the zoning district in which the property is located, the intended use or uses of the property, and the amount of earth the applicant desires to remove.

§ 63-9 Site Reclamation or Close Out.

- A. All debris, stumps, boulders, and similar material shall be removed from the site or disposed of in an approved location on site. The PGA may, at its sole discretion and where appropriate, require areas to be reseeded so as to provide a vegetative cover with a minimum of six (6) inches of organic soil cover that shall be maintained until the area is stabilized. Vegetation not surviving one growing season shall be replanted by the applicant in accordance with standard US Department of Agriculture Natural Resources Conservation Service methods in order to prevent erosion. Alternatives to this method of Site Reclamation or Close Out shall be subject to the approval of the PGA.
- B. Upon completion of the operation, the land shall be left so that the natural drainage flow exits the property at the original drainage points or empties into the original drainage channel; and when it does so, the volume of runoff or flow at any one point is not increased above that which was normal for that particular point in the absence of the earthwork operation. This shall be documented and certified by a Professional Civil Engineer upon the Close Out or Reclamation Plan as stipulated by the PGA.
- C. All large stones and boulders that protrude above the finished grade shall be removed or buried. Alternatives to this method of site reclamation or close out shall be subject to approval by the PGA.

§ 63-10 Engineering Review Consultant, Bonding & Security and Release.

- A. Engineering Review Consultant. The PGA, at its sole discretion, may determine that a proposed project's size, scale, complexity, or potential impact warrants retaining the use of licensed professional independent consultants in any given respective field. Such consultants shall provide professional guidance to assist the PGA with the necessary review and analysis needed to make informed decisions that comply with all relevant laws and regulations regarding complex issues, including hydrological testing, noise analysis, and other analyses deemed necessary. The PGA shall select and retain for a reasonable fee such consultants at the expense of the Applicant, in accordance with the provisions of G.L. c. 44, §53G.
- B. Bonding & Security. In determining the effect upon the town, the PGA shall require a surety bond, in a form approved by Town Counsel and issued by a surety licensed by the Commonwealth of Massachusetts, which shall not expire until all conditions of the permit have been satisfied. The bond shall be for an amount estimated to meet the conditions of the permit, in the event the earth removal operations are abandoned, and the Town must take steps to secure the site, and to satisfy the requirements of §63-9 Site Reclamation or Close Out.
- C. Release. After completion of work, the applicant shall submit a Close Out or Reclamation Plan as stipulated by the PGA, prepared by a registered professional engineer, showing grades at the conclusion of the operation, along with a report by geotechnical engineer certifying that the site and resulting slopes are stable. The PGA shall release the bond after the submission of the plan and with a determination that the Permit conditions have been met and when sufficient time has lapsed to ascertain that vegetation planted has successfully been established and that drainage is satisfactory.

§ 63-11 Violations.

- A. As a condition of receiving a permit, the applicant authorizes the PGA and/or its engineering consultant to: (i) enter on the site to conduct inspections on behalf of the PGA and (ii) inspect the relevant business records of the operator of the earth removal operation, including the delineation of the area to be removed. The PGA and/or its engineering consultant shall contact the applicant in advance to arrange such inspections.
- B. If a violation of this Bylaw or any condition of a permit is suspected, the PGA shall, at a public meeting and after notifying the permit-holder and/or the operator of the earth removal operation in writing, determine whether a violation exists or occurred. The PGA shall take appropriate action, up to and including issuing a fine, ordering the permit-holder and/or earth removal operator to cure the violation, imposing additional conditions to safeguard against the violation, or issuing an order to cease earth removal operations.
- C. In the case where an emergency cease and desist order requiring immediate cessation of all work on the property is warranted, the PGA shall designate an agent to serve the order regarding the violation. The PGA shall hold a public hearing to review the facts and to determine whether a violation has occurred. If a violation is found, the PGA may revoke, revise, or modify the conditions or restrictions of the permit.
- D. If a permit-holder and/or operator of earth removal operation persists in such

violation, the PGA shall, after notifying the permit-holder and/or the operator of the earth removal operation in writing, seek an imposition of penalties authorized by MGL Chapter 40, Section 21, Paragraph 17, and shall be subject to a fine of not more than \$50 for the first offense, not more than \$100 for the second offense and not more than \$200 for any subsequent offense. Each day during any portion of which such violation is allowed to continue shall be considered a separate offense. This Bylaw may also be enforced through the non-criminal disposition procedures set forth in MGL c. 40, section 21D and impose fines up to the amount of \$300.00, as provided in Chapter 1, Article III of the Town's General Bylaws.

- E. The PGA may seek injunctive relief to restrain violations or to compel abatement or remediation of violations.
- F. If the violator holds a permit issued under this article, the PGA may, after a public meeting and after notifying the permit-holder and/or the operator of the earth removal operation in writing, either (i) revoke the permit or (ii) suspend the permit, at which point all operations shall cease until such time as the necessary measures are taken to assure compliance with this article and a new permit or reinstatement of existing permit is issued.

§ 63-12 Authority to Adopt Rules and Regulations.

The PGA may adopt and periodically amend rules and regulations for the implementation of this article by majority vote after conducting a public hearing concerning such amendments. The hearing shall be published by the PGA in a newspaper of general circulation in each of two successive weeks, the first publication being not less than 14 days before the day of the hearing. Such rules and regulations may set forth performance standards for earth removal, impose filing and consultant fees, define additional terms not inconsistent with the article, and establish administrative procedures. Failure by the PGA to adopt such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this article.

§ 63-13 Appeal.

Appeals of the decisions of the PGA shall be conducted in accordance with Massachusetts General Law Chapter 249 Section 4, as amended.

§ 63-14 Severability.

The provisions of this bylaw are severable, and the invalidity of any section, subsection, paragraph, or other part of this bylaw shall not affect the validity or effectiveness of the remainder of the bylaw.

§ 63-15 Dissolution of Earth Removal Board.

Upon adoption of this bylaw by a majority of voters during a town meeting and following approval of this bylaw by the Attorney General, the Earth Removal Board shall be dissolved. All current Earth Removal Permits shall remain valid and shall transfer under the jurisdiction of the PGA under this amended bylaw. Following approval of this bylaw by the Attorney General, all pending and future earth removal issues shall be processed according to §63-1 through §63-14.

Or take any action in relation thereto.

Submitted by: Select Board
Recommendations: Select Board recommends approval.

Summary: *This warrant article replaces the current Earth Removal Bylaw with an improved version that will ensure greater protections to the health and safety of the public by regulating the removal of earth so as not to create hazardous conditions, washouts, excessive dust or noise and to protect the natural resources within the Town of Sterling. This new Earth Removal Bylaw is simpler to understand, eliminates ambiguity and will ultimately protect the Town, and hence the taxpayers, money from litigation.*

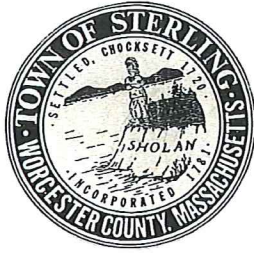
Motion Made by John Kilcoyne to amend the General Bylaw relative to Earth Removal as printed in the Warrant under Article 47. **MAJORITY VOTE**

Motion Passed by **MAJORITY VOTE** as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk





Town of Sterling
Office of the Town Clerk
One Park St, Butterick Municipal Bldg.
Sterling, Massachusetts 01564
Tel 978-422-8111 ext 2307 or 2308

EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 48. EARTH REMOVAL/QUARRYING OR MINING - PROTECTIVE BYLAW

To see if the Town will vote to amend the Protective Bylaws relative to Earth Removal and Quarrying or Mining, as wet forth below:

Article 2, Use, Dimensional and Timing Regulations, Section 2.3.1.D. (Table of Principal Uses) to delete the following use #7 "Earth removal" and to replace therewith with a new use, #7 "Quarrying or Mining" with no alteration of use in the zoning districts; it would remain permitted in the LI zoning district and would not be permitted in the RR, NR, C and TC zoning districts. The existing footnote #1 would remain as follows with additions shown in **bold/underline** and deletions shown in strikethrough:

2.3 USE REGULATIONS

2.3.2 Table of Principal Uses.

PRINCIPAL USES	DISTRICTS			
	RR	NR	C	TC
LI				
<u>D. INDUSTRIAL, WHOLESALE OR EXTENSIVE USES</u>				
7. Earth removal <u>Quarrying or Mining</u> ¹	N	N	N	N
	Y			

¹ See the Earth Removal By-law in the General By-laws.

Article 5, Definitions, by inserting, in alphabetical order, a new definition for "Quarrying or Mining" and by deleting the existing definition of "Earth Removal" as follows with additions shown in bold and deletions shown in strikethrough:

~~**Earth Removal** shall mean the removal of clay, gravel, sand, sod, loam, soil, stone or other earth materials as may be permitted pursuant to the By-laws of the town of Sterling.~~

Quarrying or Mining shall mean earth removal for the purpose of extracting soil, loam, sand, gravel, clay, rocks, minerals, or other earth material, including establishments engaged in operating sand and gravel pits and in washing, screening, or preparing sand and gravel for construction or industrial uses, but excluding grading of a lot in preparation for the construction of a structure or associated appurtenances for which a building permit or other similar permit has been issued by the town.

Article 3, Site Development Requirements, Section 3.3.2, Erosion Control, subsection 3.3.2.2 by inserting at the beginning of the subsection the following new text: "With the exception of where an Earth Removal permit has been issued" shown in bold:

3.3.2.2 **With the exception of where an Earth Removal permit has been issued**, any construction which will expose more than 60,000 square feet of bare earth during development through either removal or filling on the same parcel or on contiguous parcels in the same ownership must comply with the following..."

Article 6, Administration and Procedures, Section 6.2, Board of Appeals, by deleting subsection 6.2.2.2.a.4. in its entirety, thereby deleting the current requirement to obtain a use variance from the Board of Appeals for earth removal in the RR and NR zoning districts, shown in strikethrough:

~~4. in RR or NR Districts, no soil shall be removed from the premises except to facilitate grading for a proposed building for which a variance or a building permit has been granted, or to serve an established agricultural operation or an extension thereof. Removal of less than 1000 cubic yards of soil from any premises does not require a variance, nor does removal of soil necessary for building the infrastructure of a Definitive Subdivision Plan approved by the Planning Board. Removal of soil in an amount greater than or equal to 1000 cubic yards does require a variance. (Note: Reference should also be made to the Earth Removal By law of the town of Sterling's General By-laws.)~~

Or an action in relation thereto.

Passage requires a 2/3rds vote.

Submitted by: Select Board
Recommendation: Planning Board recommends approval.
Recommendation: Select Board recommends approval.

Summary: *This article revised the bylaw to: provide and treat Quarrying or Mining as a principal use; deletes Earth Removal as a principal use (as it is a site preparation activity); provides a new definition; clarifies an existing section; and, removes a non-applicable section if the new general bylaw is adopted.*

Motion Made by John Kilcoyne to amend the Protective Bylaws relative to Earth Removal and Quarrying or Mining, as printed in the Warrant under Article 48. **TWO-THIRDS VOTE**

Motion Passed by **TWO-THIRDS VOTE** as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk

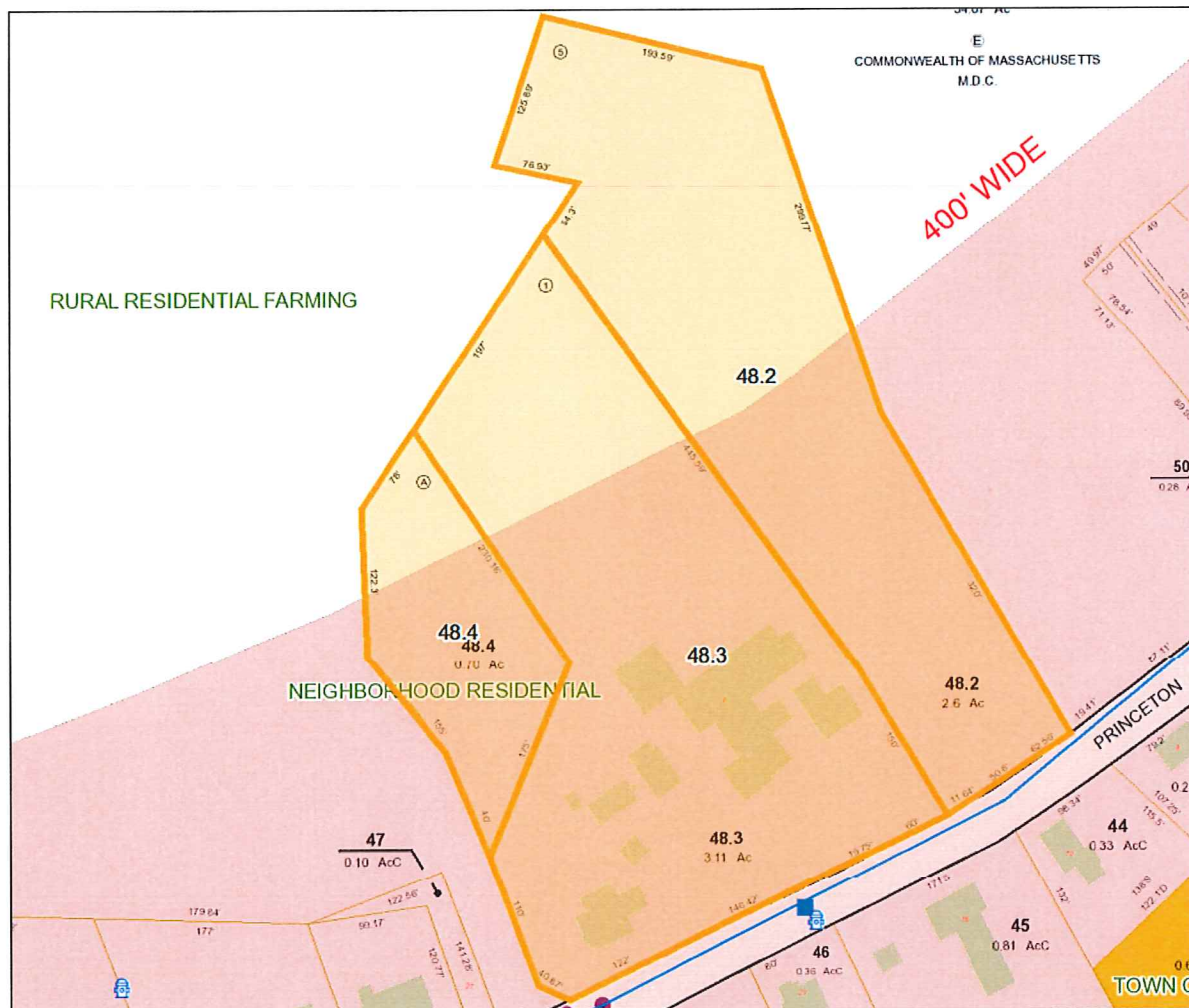


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EXCERPT OF THE ANNUAL TOWN MEETING HELD
MONDAY, JUNE 14, 2021
Sterling Airport, 121 Greenland Road

ARTICLE 50. LANDOWNER PETITION - ZONING MAP AMENDMENT

To see if the Town will vote to amend the Town of Sterling Zoning Map by rezoning Parcels 93-48.2, 93-48.3 & 93-48.4, which are currently split-zoned between Neighborhood Residential and Rural Residential & Farming Zoning Districts to be included entirely within the Neighborhood Residential Zoning District.



Or take any other action relative thereto.

Passage requires a 2/3rds vote.

Submitted by: Landowner
Recommendation: Planning Board recommends approval.
Recommendation: Select Board will report at Town Meeting.

***Summary:** These 3 lots are commonly owned by the same landowner and are split zoned between the "Neighborhood Residential" Zoning District (shown in pink) and the "Rural Residential & Farming" Zoning District (shown in white). While the left-most parcel is not buildable, and the center parcel is already built upon, the right-most parcel is buildable (complies with frontage & area) only if the owner builds within the pink portion of the lot. If the owner seeks to build a residence in the rear white portion, the parcel lacks adequate frontage. Hence, this amendment seeks to remove the split-zone and to make the entire parcels "Neighborhood Residential" (pink/grey).*

Motion Made by LANDOWNER, Tom Higgins, to amend the Town of Sterling Zoning Map as printed in the Warrant under Article 50. **TWO-THIRDS VOTE**

Motion Passed by **TWO-THIRDS VOTE** as declared by the Moderator

A True Copy Attest: _____


Kathleen K. Farrell, Town Clerk

